



## **LEGAL AND LEGISLATIVE UPDATE: FEBRUARY 2007**

**KEVIN M. GOLD, ESQUIRE, LEGISLATIVE DIRECTOR**

### **DOL GRANTS MORE TIME TO COMMENT ON POSSIBLE FMLA CHANGES**

The Department of Labor has pushed back the deadline for submitting commentary on the FMLA and its regulations until Friday, February 16, 2007. Initially, on December 1, 2006, when it published its Request for Information, the DOL indicated that comments on the leave law must be received by February 2, 2007. This deadline was extended on January 26, 2007 for an additional 14 days until February 16.

Early reports have indicated there is a great deal of interest in providing the DOL with comments and SHRM has already prepared a number of model letters for submission to the DOL on behalf of its interested members. In addition, the Human Resource Professionals of Central PA is continuing to gather comments from its membership. Interested members can submit comments to Mr. Gold via email at [kgold@rhoads-sinon.com](mailto:kgold@rhoads-sinon.com) by Friday, February 9, 2007, so that they can be received by the new DOL deadline.

### **BE CAREFUL WHEN PRODUCING DOCUMENTS TO THE EEOC**

A recent opinion by the U.S. District Court for the District of Columbia permits the Equal Employment Opportunity Commission (EEOC) to lawfully release confidential and proprietary documents submitted by employers in response to an EEOC Charge to the charging party and related individuals. Even more troubling, the Court has authorized such disclosures without the EEOC having to first notify the employer that it is doing so.

In Venetian Casino Resort v. EEOC, 2006 WL 2806568 (D.C. Cir.), the Court held that the EEOC's disclosure policy did not violate federal law. As part of its ruling, the Court opined that the EEOC's ability to disclose documents will speed and/or enhance the EEOC's investigations because it can quickly present others with information to corroborate or rebut. Although the case was not decided by a Pennsylvania court, employers in Pennsylvania are still subject to the EEOC's disclosure policy for any Charges pending before the EEOC.

Thus, it is important that employers be extremely careful when turning documents over to the EEOC (and, for that matter, the EEOC's state counterparts, such as the Pennsylvania Human Relations Commission). In order to take extra precautions to protect trade secrets and other

confidential information, counsel should be engaged to review company documents before they are produced to the administrative agencies. Counsel can ensure, for example, that responses to request for production are narrowly tailored to include only responsive documents, as well as take other precautionary measures – such as lodging objections to productions – to protect the disclosure of sensitive information.

For more specific guidance on these issues, you may reach Mr. Gold at (717) 237-6702 or by email at [kgold@rhoads-sinon.com](mailto:kgold@rhoads-sinon.com).